

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JACK SMITH,

Plaintiff,

Case Number: 06-13074

v.

HONORABLE AVERN COHN

HELEN J. MARBERRY, RICK
SCHOENBERGER, F.A.
BIERSCHBACH,
FEDERAL BUREAU OF PRISONS,
HARRELL WATTS, and
MICHAEL K. NALLEY,

Defendants.

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**ORDER ADOPTING REPORT AND RECOMMENDATION AND
GRANTING DEFENDANT NALLEY'S MOTION TO DISMISS**

This is a Bivens action under 42 U.S.C. §§ 1983, 1985 and 1986. Plaintiff, while a federal prisoner, claims he was wrongfully found guilty of major misconduct. The matter was referred to a magistrate judge for pre-trial proceedings. Defendant Michael K. Nalley filed a motion to dismiss. The magistrate judge issued a report and recommendation (MJRR) recommending that the motion be granted. Plaintiff has not objected to the MJRR.

Having reviewed the MJRR, the Court agrees with the magistrate judge that plaintiff has not stated a claim against defendant Nalley. Accordingly, the findings and conclusions of the magistrate judge are adopted as the findings and conclusions of the

Court. Defendant Nalley's motion to dismiss is GRANTED. The case continues against the remaining defendants once they have been properly served.

SO ORDERED.

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: July 24, 2007

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record and Jack Smith, 13962424, FCI - Milan, P.O. Box 1000, Milan, MI 48160-1090 on this date, July 24, 2007, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160